



The Government Minute

The Government's Responses to the Reports of the Standing Public Accounts
Committee on the Reports of the Auditor General

Government's Use of Outsourced Services (June 2019)

27 July 2020

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BACKGROUND

Section 77(7) of the Legislative Assembly Standing Orders (2006 Revision) states that the Government Minute shall be laid on the Table of the House within three months of laying of the report of the Standing Public Accounts Committee and of the report of the Auditor General to which it relates.

The Government Minute constitutes the Government's response to the Reports of the Standing Public Accounts Committee tabled in the Legislative Assembly on 1 July 2020 on the following Reports prepared by the Auditor General:

1. Government's Use of Outsourced Services (June 2019)

GOVERNMENT'S USE OF OUTSOURCED SERVICES – JUNE 2019

The Public Accounts Committee (“the Committee”) noted that the Cayman Islands Government outsources some of its services to private sector contractors. It is essential that the Government receives value for money from these outsourced services. The Government remains responsible for the services that it outsources and therefore needs to have appropriate accountability arrangements in place. The objective of the Office of the Auditor General’s audit was to determine how effectively the Government uses outsourced services and ensures that it is obtaining value for money.

In their report, the Committee endorsed the 15 recommendations of the Office of the Auditor General (“OAG”) report and encourages the Government to implement these as soon as possible:

OAG Recommendation 1

The Government should develop a procurement manual, as a matter of urgency, that is in line with the Procurement Law and Procurement Regulations. The manual should be supplemented with a complete set of well-designed templates for use across the entire civil service.

Responsibility – The Central Procurement Office (CPO)

Government Update:

As detailed in the management response to the Report of the Auditor General, this recommendation has been fully implemented by the Central Procurement Office.

OAG Recommendation 2

The Government should, as soon as possible, update the Financial Regulations to rectify any inconsistencies with the Procurement Regulations.

Responsibility – Financial Secretary & Chief Officer, Ministry of Finance and Economic Development

Government Update:

A project team, which comprised of staff from the Central Procurement Office, the Ministry of Finance and the Strategic Reforms Implementation Unit was tasked with rectifying the duplications, inconsistencies and gaps between the Financial Regulations, the Procurement Regulations and the Procurement Law (“the Legislation”). The work of the project team was reviewed and overseen by a Steering Committee consisting of the Honorable Deputy Governor, the Financial Secretary and Chief Advisor to the Deputy Governor.

On 9 June 2020, Cabinet approved the issuance of drafting instructions to amend the Legislation and the Legislative Drafting Unit is currently preparing the Orders and Bill to achieve the amendments. The Government aims to have the Orders approved by Cabinet by 31 August 2020 and the Bill approved by the Legislative Assembly by 31 October 2020 - or sooner depending upon the timing of the Meetings of the Legislative Assembly.

OAG Recommendation 3

The Government should ensure that strong business cases are prepared to justify the need for outsourced services and the value for money to be delivered.

Responsibility – Chief Officers and Chief Executive Officers

Government Update:

As detailed in the management response to the Report of the Auditor General, this recommendation has been fully implemented. Business Case templates and preparation guidance are located on the Central Procurement Office’s website:

<https://www.procure.gov.ky/templates>

OAG Recommendation 4

The Government should ensure that Requests for Proposals and Invitations to Tender are prepared for all open procurements and are in line with policies and procedures.

Responsibility – Project Managers, Entity Procurement Committees, and staff with relevant procurement delegations/responsibilities

Government Update:

As detailed in the management response to the Report of the Auditor General, this recommendation has been fully implemented. The Central Procurement Office continues to provide training and over 100 public servants have received training on Requests for Proposal and on Tender Documentation Development and Evaluation.

OAG Recommendation 5

The Government should ensure that there is sufficient justification for single-source procurements and that it is properly documented and approved, and should secure the approvals before the supplier is appointed.

Responsibility – Project Managers, Entity Procurement Committees, and staff with relevant procurement delegations/responsibilities

Government Update:

As detailed in the management response to the Report of the Auditor General, this recommendation has been fully implemented.

OAG Recommendation 6

The Government should continue to develop procurement expertise across its staff to support effective procurement.

Responsibility – Financial Secretary & Chief Officer, Ministry of Finance and Economic Development, and Director of the Central Procurement Office

Government Update:

Further to the detailed management response to the Report of the Auditor General, the Central Procurement Office continues to develop procurement expertise and provide effective support across the public service.

In August 2019, the Central Procurement Office conducted a 5-series live webinar training programme where 150 public servants learned how to utilise the Government's e-procurement tools. The webinars were recorded and are available at: <https://www.procure.gov.ky/bonfire-training>

Also in September 2019, the Central Procurement Office conducted a workshop on Specifications Development and Evaluation Criteria which was attended by 100 public servants.

The Central Procurement Office has approved the Chartered Institute of Procurement and Supply (CIPS) as the accreditation body for professional procurement training and certification. Five public servants have embarked on this training programme and one staff member from the Central Procurement Office has also committed to achieving chartered status for CIPS.

OAG Recommendation 7

The Government should monitor and analyse how much it is spending on outsourced services, in order to provide management information that will help inform decision-making on the future outsourcing of services.

Responsibility – Financial Secretary & Chief Officer, Ministry of Finance and Economic Development

Government Update:

Further to the detailed management response to the Report of the Auditor General, consultation with Chief Financial Officers will be undertaken to identify the best fit approaches to monitoring and analyzing spend on outsourced services. The Ministry plans to have this recommendation implemented by the end of 2020.

OAG Recommendation 8

The Government should look at options to centrally procure and contract out similar types of services in order to make better use of its collective buying power, while meeting other policy objectives such as supporting small and medium-sized companies.

Responsibility – Central Procurement Office

Government Update:

Further to the detailed management response to the Report of the Auditor General, the Central Procurement Office continues to support collaboration across Ministries and procure similar products and services to better utilise collective buying power.

Since the management response, in February 2020, the Government has centrally re-tendered and entered into new framework agreements for the supply of office products, paper, printing consumables, janitorial and sanitation products. In December 2019, the Government also entered into framework agreements titled 'Computers for Government' which is available to all entities to source from. In June 2020, the Government also procured its Oracle Software maintenance and support jointly across two Ministries.

In addition, where products and services are procured by one entity and it is appropriate, the advice from the Central Procurement Office is that the outcome of the procurement should be

made available to all entities. Consultation is ongoing with Chief Officers and Ministries to identify further opportunities for collaboration and joint procurements to take advantage of increased buying power.

OAG Recommendation 9

The Government should ensure that it carries out market research in advance of procuring outsourced services or deciding to outsource a particular service for the first time.

Responsibility – Project Managers, Entity Procurement Committees, and staff with relevant procurement delegations/responsibilities

Government Update:

As detailed in the management response to the Report of the Auditor General, this recommendation has been fully implemented.

OAG Recommendation 10

The Government should ensure that it prepares robust pre-tender estimates to inform the procurement process for future outsourced services.

Responsibility – Project Managers, Entity Procurement Committees, and staff with relevant procurement delegations/responsibilities

Government Update:

As detailed in the management response to the Report of the Auditor General, this recommendation has been fully implemented.

OAG Recommendation 11

The Government should develop new approaches, such as more and better engagement with the market, to foster competition among potential suppliers of outsourced services.

Responsibility – The Central Procurement Office

Government Update:

As detailed in the management response to the Report of the Auditor General, this recommendation has been fully implemented.

The different approaches to foster competition are included in the procurement training delivered by the Central Procurement Office. This includes Requests for Information, access to US market reports on over 1,000 products and services, and inviting suppliers through the Government’s electronic procurement portal. The portal, Bonfire, now has over 3,600 suppliers registered and will get automatic alerts to opportunities for which they are registered.

OAG Recommendation 12

The Government should ensure that contracts for outsourced services are in the best interests of the Government, including appropriate clauses such as consequences for poor or non-performance, and termination clauses. Contracts should set out success measures that are clearly linked to the needs of the Government.

Responsibility – The Solicitor General’s Office and Chief Officers

Government Update:

The Government accepts this recommendation.

The Attorney General’s Chambers, when preparing or reviewing contracts at the request of a Ministry or Department, looks at, among other things, clauses for termination, warranties and indemnities and limitation of liability with a view to mitigating the overall contract risk to CIG. The Chambers has also provided the Procurement Office with some standard clauses that should be incorporated into CIG contracts.

The Chambers agrees with having success measures within contracts, to the extent that these can properly be incorporated into contracts. However, success measures or KPIs such as contract lifecycle, delays in approvals and missed milestones may be more a matter of contract management and evaluation of performance by contract managers during and after contract execution.

OAG Recommendation 13

The Government should ensure that the duration of contracts for outsourced services achieve value for money, balancing the need for regular market testing and the administrative costs of procurement.

Responsibility – Project Managers, Entity Procurement Committees, and staff with relevant procurement delegations/responsibilities

Government Update:

As detailed in the management response to the Report of the Auditor General, this recommendation has been fully implemented. The guidelines related to the length of contracts is also covered in the training delivered by the Central Procurement Office.

OAG Recommendation 14

The Government should ensure that contracts have expiry dates and that written contracts are in place for all outsourced services.

Responsibility – Project Managers, Entity Procurement Committees, and staff with relevant procurement delegations/responsibilities

Government Update:

As detailed in the management response to the Report of the Auditor General, this recommendation has been actioned with ongoing guidance and support by the Central Procurement Office. This guidance and support is provided through training delivered by the Central Procurement Office.

In addition, the Central Procurement Office has contacted Chief Officers for the identification of any services which may not have written contracts in place. The Central Procurement Office will then support and guide Ministries with any such contracts through a procurement process to ensure that they are in compliance with the procurement laws and regulations. This is an ongoing process.

OAG Recommendation 15

The Government should establish effective policies, criteria and processes for evaluating and managing contracts for outsourced services, including guidance on the options available to address poor performance and on carrying out post-contract evaluation.

Responsibility – The Central Procurement Office

Government Update:

The Central Procurement Office is in the process of developing a practical contract management toolkit for managers to utilise in the effective management of their outsourced services. The toolkit will be available in August 2020, following which a training program will be delivered to managers across the Cayman Islands public sector on an ongoing basis.

The Committee made further recommendations as follows:

PAC Recommendation 2

The Committee is concerned that it took two years for the Procurement Regulations to support the *Procurement Law 2016* to be developed, potentially delaying the improvement of procurement practices in the Government and wider public sector. The Committee recommends that civil servants provide a clear timeline for the development of all supporting documents and activities needed to bring legislation fully into force when it presents draft legislation to the Legislative Assembly.

Government Response:

The Government agrees with the recommendation of the Public Accounts Committee and will ensure that there are sufficient resources to fully support and implement new legislation, policies and procedures.

PAC Recommendation 3

The Government should ensure that it achieves value for money from the delivery of services. It also has a crucial role to play in providing jobs for Caymanians. The Committee recommends that the Government should routinely assess those services that it has outsourced to determine whether it would be better to deliver these services in-house.

Government Response:

Value for money is a key principle set out in the Procurement Law. When an outsourced service contract expires and has to be renewed, the Procurement Regulations require that a business case is completed and approved prior to the commencement of the re-procurement. The business case is designed to support evidence based decision-making. This decision-making

process includes the assessment of all options including that of bringing the service in-house.

In regards to providing jobs for Caymanians, it is important to note that this broader objective is captured in Procurement Regulation 20, Cayman Islands Economic Development Preference. This is supported by local industry consultation and local industry impact statement from bidders to evaluate which submission provides the most positive impact on the Cayman Islands. This evaluation can contribute to the allocation of points the overall scoring of bids to determine the preferred bidder.